

Charter Review Attachments

March 12, 2021

David Singer

9:59 AM
(3 hours
ago)

to me, Kathy

Good morning Tammy-

Please forward this email with attachments to the Charter Review Committee, the Mayor and President of the City Council.

Thank you and have a great weekend.

Dear Members-

I have put on the Agenda for discussion for Monday the following:

1. Section 6-14, Assessors. Councilor Forgey will lead the discussion.
2. Temporary Vacancy in the Mayor's office.
3. Section 7-7; whether to have a Supplemental Petition provision or not. To help us, I attach a version of 7-7, prepared by Allen Woods, that has the supplemental petition language and an Appendix. I also attach MGLA Chapter , which are the state statutes regarding initiative petitions and referendum petitions to be used as a reference and contrast to our Charter.
4. An objective test/standard for the Council and citizens to use in determining the percentage of voters needed for each petition.

If there are still other Charter sections to discuss, please let me know on Monday.

Wishing you all a great weekend, and looking forward to seeing you on Monday.

David

SECTION 7-7: CITIZEN INITIATIVE MEASURES

(a) *Definition, Summary, and Commencement* – The words "initiative measure" shall mean a measure proposed by the voters through the initiative process provided under this charter. The process may be used by registered voters to request passage of a particular measure by the City Council or School Committee.

The initiative process is summarized in Appendix 7-7. Appendix 7-7 is intended as a general guide for voters and elected officials, but not as a legal document. All legal interpretations of Section 7-7 must be taken from the text of Section 7-7 paragraphs (a) through (h).

Initiative procedures shall be started by the filing of a proposed initiative petition with the City Clerk. The petition shall be addressed to the City Council or to the School Committee, shall contain a request for the passage of a particular measure which shall be set forth in full in the petition, and shall be signed by not less than ten (10) voters of the City. The petition shall be accompanied by an affidavit signed by five (5) voters and containing their residential address, stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form and shall indicate which member shall serve as clerk of the petitioners' committee.

(b) *Referral to City Attorney* - The City Clerk shall, following receipt of each such proposed petition, deliver a copy of the petition to the City Attorney. The City Attorney shall, not later than _____ days after receipt of a copy of the petition, in writing, advise the City Council or the School Committee, as may be appropriate, whether: (1) the measure as proposed may lawfully be proposed by the initiative process; (2) whether, in its present form it may be lawfully adopted by the City Council or the School Committee; and (3) whether the City Clerk may

issue blank forms as provided pursuant paragraph 7-7 (c). If the opinion of the City Attorney is that the measure fails in any respect, the reply shall state the reasons for that opinion, in full. A copy of the opinion of the City Attorney shall also be mailed to the person designated as clerk of the petitioners' committee. If the City Attorney takes longer than ____ days to issue an opinion, all deadlines are extended one day for each day the process is delayed.

[all timeline days and required signatures left blank for City Council consideration and decision]

[for reference, Easthampton, Northampton, Westfield, and Pittsfield all require 10% of registered voters for an initiative to move forward, equal to about 1200 signatures in Greenfield; East Longmeadow only requires a total of 60 signatures to move forward]

(c) *Submission to City Clerk* - If the opinion of the City Attorney is that the petition is eligible pursuant to Section 7-7 (b), the City Clerk shall provide blank forms for the use of subsequent signers, and shall print at the top of each blank a fair, concise summary of the proposed measure, as determined by the City Attorney, together with the names and addresses of the first ten (10) voters who signed the originating petition. No later than _____ days following the date the blank forms are issued by the City Clerk, the petitions shall be returned and filed with the City Clerk signed by not less than ____ percent (_ %) of all registered voters as of the most recent biennial City election. Signatures to an initiative petition need not all be on one (1) paper, but all such papers pertaining to a measure shall be fastened together and filed as a single instrument, with the endorsement thereon of the name and residence address of the person designated as filing the same. With each signature on the petition there shall also appear the street and number of the residence of each signer.

Not later than _____ days after the filing of the petition with its signatures, the Board of Registrars of Voters shall ascertain by what number of voters the petition has been signed, and what percentage that number is of the total number of voters as of the date of the most recent regular biennial City Election. The City Clerk shall attach to the petition a certificate showing the results of the City Clerk's examination and shall return the petition to the Clerk of the Council or the secretary of the School Committee according to how the petition is addressed. A copy of the Board of Registrars of Voters certificate shall also be mailed to the person designated as clerk of the petitioners' committee.

(d) *Action on Petitions* – Not later than _____ days after the date a petition is returned to the Clerk of the Council or the secretary of the School Committee by the City Clerk, and after publication in accordance with section 2-9(c), City Council or the School Committee shall act with respect to each initiative petition by passing it without change, by passing a measure which is stated to be in lieu of the initiative measure, or by rejecting it. The passage of a measure which is in lieu of an initiative measure shall be considered a rejection of the initiative measure. If the City Council or the School Committee fails to act with respect to any initiative measure within _____ days after the date it is returned to it by the City Clerk, the measure shall be considered to have been rejected on the _____ the day. If an

initiative measure is rejected, the City Clerk shall promptly give notice of that fact by certified mail to the person designated as Clerk of the petitioners' committee.

(e) *Supplemental Petitions, Voter Determination* – If the City Council or School Committee rejects an initiative measure, the petitioner's committee as determined in section 7-7(a) may file a supplemental initiative petition with the City Clerk within 60 days of the City Council or School Committee vote. The supplemental initiative petition shall be in the same form as the initial petition and be signed by a number of additional voters, which brings the total number of signatures for the initial and supplemental petitions to be not less than _____percent (___ %) of all registered voters as of the most recent biennial City election. Not later than _____ days after the filing of the supplemental petition, the Board of Registrars of Voters shall ascertain by what number of voters the petition has been signed, and what percentage that number is of the total number of voters as of the date of the most recent regular biennial City Election.

If the number of signatures to a supplemental petition is found to be sufficient by the Board of Registrars of Voters and City Clerk, the City Council shall submit the proposed measure, without alteration, to the voters for determination at the next regular biennial City Election, or at a special election; provided, however, that if the next regular biennial City election is to be held not later than one (1) year after the date of the certificate, the City Council may omit the calling of a special election and cause the question to appear on the election ballot at the approaching election for determination by the voters at that election.

(f) *Publication* - The full text of any initiative measure which is submitted to the voters shall be published in a local newspaper and on the City's official web site not less than seven (7) nor more than fourteen (14) days preceding the date of the election at which such question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the City Clerk.

(g) *Form of Question* - The ballots used when voting on a measure proposed by the voters under this section shall contain a question in substantially the following form:

Shall the following measure, which was proposed by voters in an initiative petition, take effect?

(Here insert the full text of the proposed measure, or a fair, concise summary prepared by the petitioners' committee, and approved by the City Attorney)

_____YES _____NO

(h) *Time of Taking Effect* - If a majority of the votes cast on the question is in the affirmative, the measure shall be deemed to be effective forthwith, unless a later date is specified in such measure; provided, however, that no such measure shall be deemed to be adopted if fewer than twenty percent (20 %) of the total number of registered voters as of the most recent biennial City election have voted at the election at which the question has been voted upon.

Appendix 7-7

Summary of Initiative Process

Note: Appendix 7-7 is intended as a guide for voters and elected officials, but not as a legal document. All legal interpretations of Section 7-7 must be taken from the text of Section 7-7 paragraphs (a) through (h)

Citizen Step in Initiative Process	Described in Section 7-7	Description
#1	(a)	Definition, Initial Filing: <ul style="list-style-type: none">An “initiative measure” is a measure proposed by voters for approval by City Council (CC) or School Committee (SC)Initial filing with the City Clerk includes the full text of the measure, signatures of at least 10 voters, 5 of which include addresses and serve as petitioners’ committee, and designates 1 who will serve as clerk for the initiative
#2	(b)	Sent to City Attorney (CA): <ul style="list-style-type: none">CA issues opinion on legality within <u> </u> days. CA approves legality or rejects legality with written reasons, and informs the petitioners’ committee.
#3	(c)	City Clerk: <ul style="list-style-type: none">Provides forms to collect signatures for a legal initiative; signatures of at least <u> </u> % of registered voters at date of last election must be returned within <u> </u> days for process to move forwardBoard of Registrars certifies signatures and percentage of registered voters within <u> </u> days and notifies committee
#4	(d)	City Council (CC) or School Committee (SC) vote: <ul style="list-style-type: none">If enough signatures, Clerk publishes per 2-9(c)Within <u> </u> days of receipt, CC or SC acts to approve, reject, or pass measure in lieu of (reject initiative)If CC or SC do not vote on measure within <u> </u> days, the measure is considered rejected
#5	(e)	Supplemental Petition: <ul style="list-style-type: none">Rejected initiative can be submitted a 2nd time within 60 days with total signatures of <u> </u> % of registered voters for both petitions
#6	(e)	Voter Determination:

		<ul style="list-style-type: none"> • If enough signatures per Registrars, CC submits to voters at next election or special election if next election is more than 1 yr. later
	(f)	Publication before Election: <ul style="list-style-type: none"> • Published in paper and official web site 7-14 days before election
	(g)	Ballot form: <ul style="list-style-type: none"> • Summary of initiative with simple Yes or No vote
	(h)	Effective date: <ul style="list-style-type: none"> • Approved initiative becomes effective immediately, unless otherwise specified, if at least 20% of registered voters cast ballots

Part I	ADMINISTRATION OF THE GOVERNMENT
Title VII	CITIES, TOWNS AND DISTRICTS
Chapter 43	CITY CHARTERS
Section 39	INITIATIVE PETITION; PASSAGE AND SUBMISSION TO ELECTORATE

Section 39. If any initiative petition is signed by registered voters equal in number to at least fifteen per cent of the whole number of registered voters:

- (1) the city council or the school committee shall, within twenty days after the date of the certificate of the registrars to that effect, pass said measure without alteration, subject to the referendum vote provided by this chapter, or
- (2) the city clerk shall call a special election to be held on a Tuesday fixed by said clerk not less than thirty nor more than forty-five days after the date of qualification, and shall submit the proposed measure without alteration to a vote of the registered voters of the city at that election; provided, however, that if any city election is otherwise to occur within ninety days after the date of qualification, the city clerk may, at his discretion, omit calling the special election and submit the proposed measure to the voters at such approaching election.

Part I ADMINISTRATION OF THE GOVERNMENT**Title VII** CITIES, TOWNS AND DISTRICTS**Chapter 43** CITY CHARTERS**Section 42** REFERENDUM PETITION; EFFECT ON FINAL
PASSAGE

Section 42. If, within twenty days after the final passage of any measure, except a revenue loan order, by the city council or by the school committee, a petition signed by registered voters of the city, equal in number to at least twelve percent of the total number of registered voters, and addressed to the city council or to the school committee, as the case may be, protesting against such measure or any part thereof taking effect, is filed with the city clerk, the same shall thereupon and thereby be suspended from taking effect; and the city council or the school committee, as the case may be, shall immediately reconsider such measure or part thereof; and if such measure or part thereof is not entirely rescinded within twenty days after the date of the certificate of the registrars, the city clerk shall submit the same, by the method herein provided, to a vote of the registered voters of the city, either at the next regular city election not less than thirty days after said twentieth day, or at a special election which the city council may, in its discretion, call for the purpose, and such measure or part thereof shall

forthwith become null and void unless a majority of the registered voters voting on the same at such election vote in favor thereof.

The petition described in this section shall be termed a referendum petition and section thirty-eight shall apply to the procedure in respect thereto, except that the words "measure or part thereof protested against" shall for this purpose be understood to replace "measure" in said section wherever it may occur, and "referendum" shall be understood to replace the word "initiative" in said section.